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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/350,713 | 07/09/1999 | JOSEPH B. KEJHA | JBK-7 | 8585 |

7590 09/01/2004

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| EXAMINER |
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VANAMAN, FRANK BENNETT

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| ART UNIT | PAPER NUMBER |
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3618

DATE MAILED: 09/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/350,713

Applicant(s)

KEJHA, JOSEPH B.

Examiner

Frank Vanaman

Art Unit

3618

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☒ Newly proposed or amended claim(s) 27 and 32-35 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 9, 10, 27/9, 27/10.

Claim(s) objected to: _____.

Claim(s) rejected: 1-6, 26, 27/1, 27/3, 29 and 30.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 2. NOTE: the proposed recitation for claim 11/32 would be considered confusing in that there are recitations of two generating devices (note that claim 11/32 includes the limitations of claim 32) -it is not entirely clear that the inventive vehicle has both devices concurrently, determining whether or not there is support for both in specification would require substantial further consideration. Claim 38 presents a new issue which was not previously considered in view of the confusion associated with applicant's recitation of previous claim 28..

Continuation of 5. does NOT place the application in condition for allowance because: As regards arguments, in item 4, please note that the examiner did not request the addition of the phrase "which does not have said electric propulsion system", an accurate representation is that the examiner found the previously presented language confusing and/or indefinite. Applicant's comments concerning item 8, and the references to Kerrebrock and Gallagher are noted, but in view of applicant's comments that the dissolving of sodium borohydride in water produces hydrogen (as explicitly pointed out by applicant at page 20 of the remarks, at lines 4-5) suggests, that, to the breadth currently claimed by the explicit recitations in the claims, the reference to Kerrebrock meets the limitations so far as it is relied upon to do so. Applicant's further comments are noted, however, these further comments appear to be directed to various limitations of applicant's invention which are not actually recited in the claims. Applicant's comments in item 13, concerning the self-evidence that a small engine consumes less hydrogen, and thus has a longer range is noted, however in view of there being no comparative evidence of efficiencies, there is no support for a longer range, merely a lessened consumption. Applicant's further comments are noted, however these are conclusory statements and not based on any factual data presented. Applicant's arguments cannot take the place of evidence, and conclusory statements with no factual or support do not constitute evidence.